

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF NEW MEXICO

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CLERK-SANTA FE

STATE OF NEW MEXICO *ex rel.*)
State Engineer, *et al.*,)

Plaintiffs,)

v.)

RAMON ARAGON, *et al.*,)

Defendants.)

69cv07941-BB-ACE

RIO CHAMA ADJUDICATION

**APPENDIX TO NO. 7912, REPLY BY STATE OF NEW MEXICO TO
RESPONSE TO MOTION TO SET ASIDE DEFAULT JUDGMENT**

Attached hereto as an appendix to the State of New Mexico, *ex rel.* State Engineer's ("State") Reply to Response to Motion to Set Aside Default Judgment are Exhibits 1 and 2 to the Reply (No. 7912). The exhibits were too large to be filed electronically with the Reply.

Exhibit 1: Office of the State Engineer Application No. 1545 and 1699 into 4656, Denied.

Exhibit 2: Letter from Jonathan Martinez, Water Rights Division, to Henry G. Coors dated February 2, 2005, *Re: Denial of Application 1545 and 1699 into 4656.*

Respectfully submitted,




Arianne Singer
Special Assistant Attorney General
Office of the State Engineer

7924

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Certificate of Service

I certify that on June 2nd, 2005, a true and correct copy of the foregoing pleading was mailed by first class mail to the counsel of record and *pro se* parties shown on the attached service list.



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**APPLICATION FOR PERMIT TO CHANGE POINT OF DIVISION AND
PLACE AND/OR PURPOSE OF USE OF SURFACE WATERS**

DENIED

1. Name of Applicant Henry G. Coors
Mailing Address HC 75, Box 1161
City and State Rutheron, NM Zip Code 87551
2. Water right is recorded with the State Engineer under File No. 1545-1699
and has a priority of 1922 for domestic, livestock & irrigation purposes.
3. Annual quantity of water claimed under right: 35.3 x 1.02 = 36.006 acre-feet. Quantity of
water stored: 2.226 for evaporation _____ acre-feet. Name of ditch: Willow Creek
Source of water supply: Chama River, a tributary of Rio Grande
(river, arroyo, spring, etc.)

- Annual quantity of water to be transferred by this application: 10 which included 4 from prior application _____ acre-feet.
4. Point of diversion from which water right is to be changed: (a) _____ 1/4 _____ 1/4 _____ 1/4
of Section _____ Township _____ Range _____ N.M.P.M. at a point
whence the _____ of Section _____ Township _____
Range _____ bears, _____ feet distant.

(b) X = 403,600 feet, Y = 2,103,000 feet, N.M. Coordinate System
Zone within the _____ Grant.

5. Area from which water right is to be severed: (a) 9.81 acres,
described as follows:

Subdivision	Section	Township	Range	Acres	Owner
All or part of	<u>11</u>	<u>3 S.</u>	<u>2 E.</u>	<u>9.81</u>	<u>Henry G. Coors</u>

lots B, C, D, E-1,
F and G-1 of Ft.
Heron Preserve Subdivision
and a portion of the Mauldins
property being east of the subdivision

(b) If there are no other sources of water for these lands, describe by source and file No.

6. This water right is to be changed from irrigation purposes.
to domestic purposes.

7. Location of proposed point of diversion: (a) _____ 1/4 _____ 1/4 _____ 1/4 of section
the _____ Township _____ Range _____ N.M.P.M. at a point whence
Range _____ bears, _____ of Section _____ Township _____
Range _____ bears, _____ feet distant.

(b) X = 395,045 feet, Y = 2,073,664 feet, N.M. Coordinate System
Zone within the Tierra Amarilla Grant.

(c) Name of stream, spring, tributary, etc., from which diversion is proposed to be made Chama River

(d) Description of new diversion system (give construction material, type, dimensions, hydraulic properties, pump information, etc.) Infiltration gallery - Sec Rutheron Water Association diversion facility

(e) Additional data (give dimensions, capacity, etc., of new canal section; also data on any other proposed works)

8. Area to which water right is to be moved: (a) 120 acres, described as follows:
- | Subdivision | Section | Township | Range | Acres | Owner |
|---------------------|-----------|-------------|-------------|------------|-----------------------|
| Port Heron Preserve | <u>11</u> | <u>3 S.</u> | <u>2 E.</u> | <u>120</u> | <u>Henry G. Coors</u> |

subdivision plus
3 acres south of the
subdivision

(b) Water to be used thereon for domestic purposes.

(c) If there are no other sources of water for these lands, describe by source and file No.

FOR STATE ENGINEER USE ONLY

Date Received _____

File No. _____

EXHIBIT

tabbies

9. Application is made to change point of diversion and place and/or purpose of use for the following reasons:
land is now being used for residential purposes rather than as a farm
10. Additional statements or explanations See attached supplement and Plat for additional information

I, Henry G. Coors, affirm that the foregoing statements are true to the best of my knowledge and belief and that I am the sole owner.
 (sole, partial, agent for, etc.)

Henry G. Coors, Applicant

Subscribed and sworn to me before this 21st day of October, A.D., 1999

My commission expires 7-23-2003

OFFICIAL SEAL
 CECILIA C. GARGIA
 NOTARY PUBLIC - STATE OF NEW MEXICO
 Notary Seal Filed With Secretary of State

Cecilia C. Gargia
 Notary Public

ACTION OF STATE ENGINEER

This application is approved provided it is not exercised to the detriment of any others having prior and existing rights to the use of waters of this stream or to the detriment of any rights acquired prior to filing this application for permit to change point of diversion and place or purpose of use

DENIED

Proof of completion of works shall be filed on or before _____, 19____

Proof of application of water to beneficial use shall be filed on or before _____, 19____

Witness my hand and seal this _____ day of _____, A.D., 19____

STATE ENGINEER

By: _____

INSTRUCTIONS

This form shall be executed, preferably typewritten, in triplicate and must be accompanied by a \$50.00 filing fee. Each copy must be properly signed and attested. If applicant is not recorded owner of water right, Change of Ownership affidavit should accompany this application. DO NOT FILL IN the date received and file number listed at the bottom of first page of this form as this information will be entered by the State Engineer.

SUPPLEMENT

DENIED

This application seeks to change the point of diversion, the place of beneficial use and the purpose of use for:

10 acre feet consumptive use, which includes 2 acre feet on the Applications of Henry G. Coors, dated May 7, 1993 and the 2 acre feet on the Application of Henry G. Coors dated March 12, 1996 plus an additional six (6) acre feet.

Transferors: The transferors will be Henry G. Coors and Judith A. Coors

Transferee: The transferee shall be Rutheron Water Association.

Original Point of Diversion: Willow Creek Mesa Ditch X=408,600 Y=2,103,664

New Point of Diversion: Rutheron Water Association's Infiltration Gallery
X=395,045 Y=2,073,664

Original area of use: Parcels 1, 2 and 3, Section 11, T.3 S., R. 2 E., Tierra Amarilla Land Grant.

New Area of Use: Sections 1, 2, 11 of T. 3 S., R. 2 E., and Sections 31, 32, 33 T. 2 S., R. 2 E., being the service area of the Rutheron Water Association.

Original Purpose of Use: Irrigation.

New Purpose of Use: Domestic

Plat: Attached to this Application is a Plat which shows:

1. Original 35.3 acres of permitted water rights
2. 14.66 acres now being dedicated to offset evaporation in two ponds
3. 8.0 acres conveyed to William Mauldin and Linda DeMill
4. 9.81 acres subject to this application
5. 2.83 acres to remain under irrigation in Lots D, F and G, Fort Heron Preserve
6. Area to receive domestic water service from 10 acre feet of consumptive use water rights.

Calculations:

9.81 acres x 1.02 = 10.0 acre feet

Consumptive use = CIR x adjustment for historic supply
= 1.11 x .92
= 1.02



S T A T E O F N E W M E X I C O

OFFICE OF THE STATE ENGINEER

Santa Fe

John R. D'Antonio Jr., P.E.
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6120
FAX (505) 827-6662

February 2, 2005

Henry G. Coors
163 Rainbow Drive #613
Livingston, Texas 77399-1063

CERTIFIED - RETURN
RECEIPT REQUESTED
(#70001530000558307653)

Re: Denial of Application 1545 and 1699 into 4656

Greetings:

The Office of the State Engineer denied application 1545 and 1699 into 4656 on January 25, 2005 for the following reason:

Pursuant to an Order Granting Motion for Default Judgment filed October 11, 2004 (Docket No. 7611) by the United States District Court for the District of New Mexico, Henry G. Coors has no interest in the irrigation water rights described in Subfile CHRU-004-0044 (move-from lands) of the Rutheron Section of the Rio Chama Hydrographic Survey (see attached Order).

If you are aggrieved by this decision, you should so advise this office in writing before the expiration of thirty (30) days after receipt of this letter and request that the previous actions of the State Engineer be set aside and that a date for hearing be set by the State Engineer. Requests for hearing may be filed by facsimile, provided the original request is mailed and postmarked within 24 hours of the facsimile. The applicant must indicate the date and time of transmission of the facsimile and also provide a cover letter confirming that the original will be mailed within 24 hours.

Feel free to contact me if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Martinez'.

Jonathan Martinez
Water Rights Division, Santa Fe
(505) 827-6120

Enclosure (3)

